IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 11041 of 2007(M)

PETITIONER:

M/S.STANDARD INDIA GRANITES,
ANCODE,PERUMKADAVILA,NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM,REPRESENTED BY ITS
MANAGING PARTNER,R.SREEDHAR.

BY ADV. DR.K.B.MOHAMMED KUTTY(SR)
SRI.K.M.FIROZ

RESPONDENTS:

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1. THE SALES TAX OFFICER,DEPARTMENT OF
COMMERCIAL TAXES,NEYYATTINKARA.

2. THE DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

3. THE INSPECTING ASSISTANT COMMISSIONER,
DEPARTMENT OF COMMERCIAL TAXES,NEYYATTINKARA.

BY SR.GOVT. PLEADER SRI.MOHAMMED RAFIQ.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO.11041 OF 2007-M

JUDGMENT

The petitioner attacks Ext.P1 interim order, disposing of its stay applications filed along with Ext.P8 series appeals. It has been directed to pay 50% of the tax due. The petitioner submits, pursuant to the pre-assessment notice, though time was sought to produce the books of accounts and documents, the same was not granted and without referring to the request made by the petitioner or the reason for its rejection, ex parte best judgment assessment has been made. Imaginary sums were fixed as turnover, it is submitted. Substantial portion of the sales is inter-State sales or export sales. Whatever tax payable has already been paid, it is submitted.

2.I heard the learned Government Pleader for the respondents also. This being an assessment made without giving an opportunity to the petitioner to produce the books of accounts, I feel that the stay order should be granted on more liberal terms. Accordingly, it is ordered that if the petitioner furnishes security for the disputed tax for the years 2002-03. 2003-04 and 2004-05 within two weeks from today, further recovery will be kept in abeyance till the appellate authority disposes of the appeals. The petitioner

shall co-operate with the appellate authority for final disposal of the appeals, without taking unnecessary adjournments. The appellate authority shall pass final orders on Ext.P8 series appeals preferably within three months from today. Needless to say, the admitted tax, if any, shall be paid by the petitioner.

The Writ Petition is disposed of as above.

29th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/